

**UNITED STATES DISTRICT COURT
Northern District of California
280 South First Street
San Jose, California 95113**

www.cand.uscourts.gov

Richard W. Wieking
Clerk

General Court Number
408.535.5364

April 10, 2008

RE: CV 08-01449 JF BEVERLY THORP-v- JUDGE ROBERT ATTACK, ET AL.

Default is declined as to Defendant Judge Robert B. Attack on 4/9/2008.

RICHARD W. WIEKING, Clerk



by: Gordana Macic
Case Systems Administrator

DEFAULT DECLINED

4/9/08

RICHARD W. WIEKING, CLERK

BY

DEPUTY CLERK

Beverly Thorp
c/o Box 2070
Sunnyvale CA 94087
FC002

UNITED STATES DISTRICT COURT
Northern District of California
San Jose Division

Plaintiffs:

Beverly Thorp

v.

Defendant:

Judge Robert Atack, et al.
Superior Court of Santa Cruz
701 Ocean St.
Santa Cruz CA 95060

Does 1 through 99

Case No. C 08 – 01449 HRL

Request For Default

Request For Default

I, Beverly Ann Thorp, a flesh-and-blood woman, a human being, an Authorized Representative and Agent for BEVERLY THORP, sui juris, Ingenuitas juris et de jure, a State National citizen and NOT a Federal Zone citizen. Under a special appearance of Propria Persona, Without Prejudice, under the Uniform Commercial Code, UCC 1-207, UCC 1-103, and UCC 3-402, have first hand knowledge of the facts stated herein, and being competent in mind and body to testify, declare and affirm the facts stated herein are true correct, complete and admissible as evidence, in all material fact, not misrepresented and are made pursuant to the Laws of the Union of States of America and the California Republic.

1 **UCC 1-207 Sufficiency of reservation.**

2
3 Any expression indicating any intention to preserve rights is sufficient, such as "without
4 prejudice," "under protest," "under reservation," or "with reservation of all our rights."

5
6 The making of a valid reservation of rights preserves whatever rights the person possesses
7 and prevents the loss of such right by application of concepts of waiver or estoppel.

8
9 **UCC 1-103 Common law.**

10
11 The UCC Code is "Complementary" to Common Law which remains in force except where
12 displaced by the Code.

13
14 All statutes should be construed in harmony with the Common Law unless there is a clear
15 legislative intent to abrogate Common Law. ... "The UCC Code cannot be read to preclude
16 a Common Law action."

17
18 *The essence of procedural due process is fundamental fairness. de Koevend v. Board of*
19 *Educ., 688 P.2d 219, 227 (Colo. 1984). The parties have a right to be heard when their*
20 *rights are affected, and in order to enjoy this right they must first be notified. City of*
21 *Chicago v. American National Bank & Trust Co. (1988), 171 Ill. App. 3d 680, 688, 121 Ill.*
22 *Dec. 608, 525 N.E.2d 915. Due process requires, at a minimum, notice and the opportunity*
23 *for a meaningful hearing before an impartial tribunal. Mathews v. Eldridge, 424 U.S. 319,*
24 *333, 348-49 (1976).*

25
26 This Request For Default is against the Defendant Judge Robert B. Attack for failure to
27 answer the Plaintiff's Complaint which ought to have been done. *Town of Milton v. Bruso,*
28 *111 Vt. 82, 10 A. 2d 203, 205.*

29
30 Specifically, the Defendant Judge Attack failed to perform a legal duty. *Easterwood v.*
31 *Willingham, Tex. Civ. App.. 47 S.W. 2d 393, 395.*

1 The Defendant Judge Attack failed to comply with CCP § 586, FRCP-7, and FRCP-56.

2
3 Fraud and deceit may arise from silence where there is a duty to speak the truth, as well
4 as from speaking an untruth. Morrison v. Coddington, 662 P. 2d. 155, 135 Ariz. 480(1983).

5
6 Silence can only be equated with fraud when there is a legal and moral duty to speak or
7 when an inquiry left unanswered would be intentionally misleading. We cannot condone
8 this shocking conduct... This sort of deception will not be tolerated and if this is routine it
9 should be corrected immediately. Norman v. Zieber, 3 Or at 202-03; U.S. v. Prudden, 424
10 F.2d. 1021; U.S. v. Tweel, 550 F. 2d. 297, 299, 300 (1977).

11
12 Judge Attack's failure to answer the Plaintiff's Complaint is tacit consent by him of the
13 validity of the document and the truths stated therein, and for the disposition of any
14 controversy without a trial as there are no disputes to either material fact or inferences to
15 be drawn from undisputed facts and no dispute in the question of the laws involved and
16 applied. American State Bank of Killdeer v. Hewson, N. D., 411 N. W. 2d 57, 60.

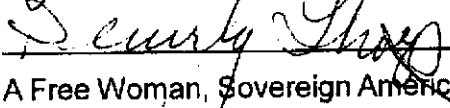
17
18 The Plaintiff will be submitted to the Court, at a later date, a Default Judgment.

19
20 Further, Beverly Thorp saith naught.

21 Without Prejudice, UCC 1-207, UCC 1-103, & UCC 3-402

7 April 2008

22 Beverly Thorp, an Authorized Representative and Agent

23
24  In Propria Persona Sui Juris
25 A Free Woman, Sovereign American, with Constitutional Rights intact UCC § 3-402 (b)(1)
26 De Jure Soli, Jus Sanguinis, Coronea, Teste Meipso.

27
28 Reserving All Rights, Giving Up None.

29 Notice to agent is notice to principal. Noted to principal is notice to agent.

30 All Rights Reserved (UCC1-308)

PROOF OF SERVICE / DELIVERY

(CCP § 413.10 – 416.90)

I am a citizen of the California Republic. I am over the age of eighteen years. I am able and willing to testify to the facts stated herein.

I served the following document(s) on all appropriate parties in this action by placing a copy of the said document(s) in a sealed envelope, with postage attached, and deposited it with the U.S. Postal Service.

• **Request For Default** (FC002)

X I caused such envelope to be deposited in the mail with the U.S. Postal Service. The envelope was mailed with postage thereon fully prepaid. Mailed to each of the following:

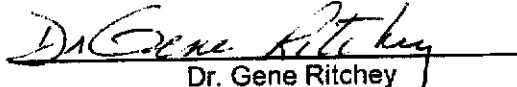
Judge Robert Atack, 701 Ocean St., Santa Cruz CA 95060.
Judge Paul Burdick, 701 Ocean St., Santa Cruz CA 95060.

 The Proof of Service / Delivery signed by the authorized courier is on file and is available upon demand.

I am readily familiar with the practice of collection and processing correspondence for mailing. The above document(s) were deposited with the U.S. Postal Service within the time frame prescribed by law.

I declare, under penalty of perjury of the laws of the State of California the foregoing is true and correct.

7 April 2008


Dr. Gene Ritchey
c/o Box 2070
Sunnyvale CA 94087